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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/955,309	09/19/2001	Takayoshi Ozaki	57454-237	8168
20277	7590	12/12/2003	EXAMINER	
MCDERMOTT WILL & EMERY 600 13TH STREET, N.W. WASHINGTON, DC 20005-3096			MONBLEAU, DAVIENNE N	
		ART UNIT	PAPER NUMBER	
		2878		

DATE MAILED: 12/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	09/955,309	OZAKI ET AL.	
	Examiner	Art Unit	
	Davienne Monbleau	2878	MW

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 29 September 2003.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-11 and 13-24 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 1-10 and 14-24 is/are allowed.
- 6) Claim(s) 11 and 13 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 19 September 2001 is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. §§ 119 and 120

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.
- 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
  - a) The translation of the foreign language provisional application has been received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5/14/03.
- 4) Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Information Disclosure Statement***

The IDS filed on 5/14/03 has been acknowledged and a signed copy of the PTO-1449 is attached herein.

### ***Response to Amendment***

The amendment filed on 9/29/03 has been entered. Claim 12 has been canceled. Claims 1, 2, 5, 11, and 13-17 have been amended. New claims 20-24 have been added. Claims 1-11 and 13-24 are pending.

Applicant's arguments filed on 9/29/03 regarding Claims 1-10 and 14-24 have been carefully considered and found persuasive.

Regarding Claims 1-10 and 20-24, the Applicant argues on pages 13-14 that the cited prior art of record fails to teach that said "axial electromagnet is arranged opposing to one end surface of said rotary shaft, and said permanent magnet is arranged opposing to the other end surface of said rotary shaft.."

Regarding Claims 14-19, the Applicant argues on page 17 that the cited prior art of record fails to teach first and second sealing members for the coil and the sensor.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim 11 is rejected under 35 U.S.C. 102(e) as being anticipated by Sekiguchi et al. (US 6,603,787). Sekiguchi et al. disclose in Figure 3 a fan for an excimer laser apparatus comprising an austenitic stainless steel rotary shaft (4), a fan (3), a motor (12), and a magnetic bearing (8). Sekiguchi et al. further disclose in Figure 5 a magnetic body (11e) fixed on a surface of said stainless steel rotary shaft (4), and an opposing electromagnet (8b).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sekiguchi et al. (US 6,603,787) in view of Webb (US 6,208,675). Sekiguchi et al. do not teach the material of the shaft. Webb teaches in column 2 lines 37-40 various materials for the shaft, such nickel, monel, and tin. It would have been obvious to one of ordinary skill in the art at the time of the

invention to use a material in Sekiguchi et al., as taught by Webb, because they are resistant to erosion when exposed to the gases. Choosing a particular material based on its inherent properties involves routine skill in the art.

***Allowable Subject Matter***

Claims 1-10 and 14-24 are allowed.

The following is an examiner's statement of reasons for allowance:

Regarding Claims 1-10 and 20-24, the cited prior art of record does not teach or fairly suggest a structure of a reflux fan for an excimer laser apparatus comprising, along with the other claimed features, an axial electromagnet arranged opposing to one end surface of said rotary shaft and a permanent magnet arranged opposing to the other end surface of said rotary shaft.

Regarding Claims 14-19, the cited prior art of record does not teach or fairly suggest a structure of a reflux fan for an excimer laser apparatus comprising, along with the other claimed features, a first seal member sealing said coil to protect said coil from corrosion by said laser gas and leaving said surface of the magnetic pole exposed to said laser gas, and a second seal member, separate from said first seal member and sealing to protect said sensor unit from corrosion by said laser gas.

The advantages of these features are in the specification on pages 1-10. In particular, regarding Claims 1-10 and 20-24, the Applicant states in the amendment filed 9/29/03 on page 16 that this arrangement reduces the apparatus size, makes a power circuit for driving the axial electromagnet coil unnecessary, and reduces the overall cost. Regarding Claims 14-19, the Applicant states in the amendment filed 9/29/03 on page 17 that the separate sealing members protect the coil and sensor against the laser gas and facilitate the disassembly of the apparatus.

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Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Davienne Monbleau whose telephone number is 703-306-5803. The examiner can normally be reached on Mon-Fri 9:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Porta can be reached on 703-308-4852. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

*Davienne Monbleau*

DNM